



**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/441,140	11/16/99	SOLOMON	B 27/150

HM12/0905

MARK FRIEDMAN
C/O ANTHONY CASTORINA
2001 JEFFERSON DAVIS HIGHWAY SUITE 207
ARLINGTON VA 22202

EXAMINER

BANSAL, G

ART UNIT

PAPER NUMBER

1642

DATE MAILED: 09/05/00

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

703 415 4864 703534 4747

Office Action Summary

Application No.

09/441/40

Applicant(s)

Solomon

Examiner

Bansal

Group Art Unit

1642

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE -3- MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 11/16/99
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-87 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 5-87 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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DETAILED ACTION

Reissue Applications

1. Claims 5-87 are rejected under 35 U.S.C. 251 as being improperly broadened in a reissue application made and sworn to by the assignee and not the patentee.

The original claims were drawn to a method for selecting an anti-aggregation molecule, wherein the anti-aggregation molecule is selected from a group consisting of monoclonal or recombinant antibody, an antigen binding fragment and a single chain antibody, and wherein the specificity of the anti-aggregation molecule is to a target polypeptide which aggregates. The newly added claims are broadened in that they are drawn to inventions that were not claimed in the original, which at its best was drawn to a selection for antibodies and testing in an invitro system for its ability to maintain a biologically active "aggregating" protein in the presence of the anti-aggregating molecule. The new claims broaden it to an in vivo use. Further, the claims are broadened to include expression vectors, host cells and a method of using them in vivo, as well as to administering an "aggregating" antigen, expression vectors and host cells expressing said antigen and similarly with peptides of amyloid subunits. The claims are also broadened to include methods of treatment of Alzheimers. These newly added claims are very much broader than the product claims that were issued in the earlier Patent No 5, 688, 651.

It appears that the broader claims have been instituted by the Assignee, as the Declaration of the inventor is not clear with respect to the signature and date of execution. In the event that issue gets resolved, the claims will still remain rejected under 35 U.S.C. 251 as being drawn to broader claims that can be seen by reviewing the attached Restriction Groups. *was not mailed out*

2. Papers related to this application may be submitted to Group 1640 by facsimile transmission. Papers should be faxed to Group 1640 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette,

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1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 308-4242 or (703) 305-3014.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Geetha P. Bansal whose telephone number is (703) 305-3955. The examiner can normally be reached on Mondays to Thursdays from 7:00am to 4:30pm and alternate Fridays from 7:00am to 3:30pm. A message may be left on the examiner's voice mail service.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Anthony Caputa, can be reached on (703) 308- 4995.

4. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

August 27, 2000


GEETHA P. BANSAL
PRIMARY EXAMINEE